

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JEFFREY DEVOUR,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 09-14931

Hon. Gerald E. Rosen

Magistrate Judge Charles E. Binder

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND AWARDING ATTORNEY FEES TO PLAINTIFF**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on April 14, 2011

PRESENT: Honorable Gerald E. Rosen
Chief Judge, United States District Court

On October 28, 2010, Magistrate Judge Charles E. Binder issued a Report and Recommendation ("R & R") recommending that the Court grant Plaintiff Jeffrey DeVour's motion for an attorney fee award in the amount of \$4,656.25. No objections have been filed to the R & R. In addition, the Defendant Commissioner has stated that he has no objection to the fee award sought by Plaintiff. Accordingly, upon reviewing the R & R, Plaintiff's underlying motion, and the record as a whole,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's October 28, 2010 Report and Recommendation is ADOPTED as the ruling of this Court.

IT IS FURTHER ORDERED that, for the reasons stated in the R & R, Plaintiff's September 16, 2010 motion for attorney fees (docket #21) is GRANTED. Finally, IT IS FURTHER ORDERED, in accordance with Plaintiff's motion and the R & R, that Plaintiff be awarded the amount of **\$4,656.25** in attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(A).¹

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: April 14, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 14, 2011, by electronic and/or ordinary mail.

s/Ruth A. Gunther
Case Manager

¹As noted in the R & R, the Sixth Circuit has held that an award of fees under the EAJA must be made to the prevailing party himself, and not his counsel. (*See* R & R at 4 n.2 (citing *Bryant v. Commissioner of Social Security*, 578 F.3d 443, 446-49 (6th Cir. 2009)).) As further observed by the Magistrate Judge, Plaintiff has filed an affidavit in this case assigning his right or interest in any attorney fee award to his counsel, and authorizing his counsel to endorse his name on any check representing an award of fees under the EAJA. (*See* R & R at 4 n.2.)